

REMARKS

Claims 1 through 16 have been cancelled so that claim 17 is now the primary independent claim. Claim 17 has been amended so as to more clearly point out the structure of tractor with which the present invention is concerned which is a tractor in which the implement is supported across the forward end of the tractor in regard to the working direction of movement, bearing in mind that the tractor can also be turned and operated in the reverse direction. The term "forward" is therefore put forward in regard to the working direction and this is made clear in the amended claim.

It will be noted that in such an arrangement the implement in the form of a header, which is relatively heavy, is located forwardly of the front wheels and therefore tends to lift the rear of the tractor upwardly thus reducing the load on the tractor at the rear wheels. This is opposite to the situation of a trailer in which the load is applied onto the trailer which increases the load on the rear wheels.

Claim 17 has also been amended to make clear that the damper cylinders and the levers are arranged so that the damping force is at a maximum when the second wheels are parallel to the center line and moving in the forward direction and also at a maximum value when the wheels are parallel to the center line and moving in the opposite direction.

The examiner has cited the prior art of Green which relates to a trailer to be attached at its forward end to a towing vehicle and at its rearward end carries castor wheels.

Firstly it is submitted that Green does not constitute analogous art. Thus it is submitted that the prior art of Green is not analogous art as set out in paragraph 2141.01(a) of MPEP.

Firstly it is pointed out that the swather tractor has entirely different characteristics than that of a trailer. Firstly the speeds of movement involved are entirely different. The trailer of Green is of course to be attached to a road vehicle and thus is intended to travel at highway speeds. An agricultural tractor moves only very slowly generally at speeds less than 10mph.

Secondly the loading arrangements are entirely different in that the swather tractor carry its load in front of the front wheels and thus the loading of the header on the tractor acts to reduce the loading on the castor wheels rather than to increase the loading as in the trailer of Green.

Thirdly the swather tractor includes a rear beam which is pivotal side to side as is well known in such swather tractors. This is entirely different from the arrangement of Green and is entirely impractical in a trailer of the type shown in Green.

Even if one were to look at the document of Green, Green sets forth that the arrangement shown provides a number of advantages. On page 1 of the PCT reference is stated

"Although it can increase the manoeuvrability of a trailer, a castor wheel assembly can also lead to greater amounts of stress placed on the hitching mechanism, particularly when the trailer is used on a road with a sharp crown."

Clearly the present invention is not in any way related to hitching mechanisms or to use on roads with a sharp crown.

In the next sentence it is stated that *"the wheel of the castor wheel assembly can oscillate between different sides of the crown in the middle of the road."*

Clearly the present invention is not in any way concerned with this problem.

Further in the middle of page 2 is stated

"Thus what is needed is a trailer system that can handle heavy capacity loads without sacrificing the manoeuvrability or versatility of the trailer yet can reduce the risk of structural damage to the hitching mechanism".

Clearly this problem as set forth by Green is completely irrelevant to which the present invention is concerned.

Even if the skilled person therefore, while considering the problems of a swather tractor, looked to the disclosure of Green, one skilled in the art would reject Green as being completely irrelevant to the problems.

It is submitted therefore that a person skilled in the art would not consider Green to disclose analogous art and thus would NOT look to Green for solutions of problems relating to Swather tractors.

Secondly it is pointed out, that even if Green is properly combined in a rejection under 35USC103, Green does NOT disclose the arrangement set forth above of the maximum values in the two directions parallel to the center line. Green is entirely silent on this issue. In the rejection by the examiner, the Examiner has not mentioned claim 17 nor claim 2 where this feature was originally presented and the assumption must be therefore that the Examiner appreciates that Green does not disclose this feature.

It is well established that a prima facie case of obviousness can only be sustained in the event that each and every feature of the claim is disclosed in one or

other of the prior art documents. The only document relating to the damper cylinders is that of Green and Green is silent in respect of this feature.

The Examiner will note that there is no mention in the text of Green concerning changes in damping force.

It is submitted that it is not proper merely to look to the drawings of a prior art reference and to make assumptions from those drawings.

However even if one looks to the drawings, it is clear that there is no consistent disclosure concerning the position and the angle of the damper cylinder. In Figure 1 the damper cylinder 38 is apparently mounted on top of the rear beam 16. The lever on the castor wheel assembly, which is the Z shaped plate 68, is disclosed as being significantly rearward of this position. In figure 3 there is another disclosure in which the cylinder is mounted rearward of the rear beam and the other end of the cylinder is still further rearward. Figures 6 and 7 are similar to figure 3 but again have significant differences of geometry. Figure 8 discloses a yet further arrangement in which the cylinder 34 is at an angle at the order of 30° to the center line of the trailer. Similarly Figure 11 discloses an arrangement in which the cylinder is at an angle at the order of 30° to the center line. In Figure 12 there is yet a further disclosure in which a shallower angle still is shown.

The text states that the cylinder can be mounted at any location but does not disclose any criteria by which the location may be selected.

Yet further it is not proper to assume dimensions and therefore geometry merely from drawings. While the arrangement in figure 3 shows the cylinder extending along the rear beam, it is not parallel to the rear beam. As dimensions cannot be

assumed from the drawings the vertical axis about which the castor wheel rotates may be spaced significantly rearwardly of the position shown thus significantly increasing the angle of the cylinder to the rear beam.

The examiner will appreciate that the positions of the maximum damping force are determined by the geometry of the structure, as set forth in the present application. However Green is entirely silent as to what geometry should be adopted and provides no criteria by which the geometry may be selected. The feature defined therefore is NOT implicit from nor inherent in the disclosure of Green since that disclosure is not clear and since no embodiment shown in the drawings discloses an arrangement which would, if adopted, provide that feature.

It is absolutely therefore a matter of hindsight to assume that Green shows an arrangement in which the cylinder is parallel to the rear beam that is at right angles to the center line and thus discloses the arrangement set forth in claim 17. In other words Green is simply silent on the geometry that should be selected and therefore does not disclose a particular geometry which has been adopted in the present invention and provides the significant advantage in the present invention.

It is submitted therefore that claim 17 as amended is properly distinguished from the prior art of Green even if combined with the admitted prior art of swather tractors and therefore claim 17 should be allowed.

Turning now to new claim 21, this claim includes all of the features of claim 17 above together with the further feature of the adjustable axle and the mounting of the damper cylinder end coupling onto a bracket carried on the center portion of the rear axle with the bracket being movable relative to the center portion to accommodate

13

adjustment of the adjustment portion of the rear axle. Clearly Green is entirely silent on such an arrangement and provides no disclosure as to how the cylinder should be attached to the frame.

It is submitted therefore that claim 21 is even further distinguished from the prior art and should therefore be allowed.

Claim 22 which is dependent on claim 21 includes the further feature of the construction of the bracket including a vertical attachment portion and the horizontal flange which extends over the top of the rear axle. Again Green is entirely silent on construction of this type.

It is submitted therefore that even if claim 17 is rejected (which it is submitted would be improper), claims 21 and 22 should be allowed.

Respectfully submitted

JAMES THOMAS DUNN ET AL

PER:

Adrian D. Battison

Registration No: 31,726

ADB/dj
February 1, 2006
Adrian D. Battison

Winnipeg, Manitoba, Canada
Telephone (204) 947-1429 - FAX (204) 942-5723

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300, on

DORIS JONES

